

REMARKS

Reconsideration and allowance of this application are respectfully requested. Applicant respectfully submits that the pending claims define patentable subject matter.

1. Overview of Non-Final Office Action

Claims 1-9 are rejected as allegedly being unpatentable under 35 U.S.C. § 103(a) over Ma et al. (U.S. Patent No.: 4,998,111; hereafter “Ma”) in view of any one of Krasner (U.S. Patent No.: 5,663,734; hereafter “Krasner `734”), Krasner et al. (U.S. Patent No.: 6,185,427; hereafter “Krasner `427”), and King et al. (U.S. Patent No.: 6,313,787; hereafter “King”).

2. Summary of Amendment

In this Amendment, Applicant amends claim 1 by incorporating claims 2 and 5 to more clearly define the subject matter and further distinguish the claimed features from the cited references.

3. Analysis of Prior Art Rejection of Claims

With regard to amended **claim 1**, Applicant respectfully submits that the Ma reference does not describe in which manner the peaks are associated with the corresponding satellites.

In contrast, non-limiting exemplary embodiments of the present invention provide using the propagation time difference based on an estimated position of the mobile device, comparing this difference with the time difference based on the position of the peaks, and thus determining the phase code of each satellite. These features are not described in the cited references, taken alone or in combination.

The Examiner simply asserts that the feature of claim 5 (which is now incorporated into claim 1) is disclosed also in FIG. 2 and col. 3, lines 54-61. However, Ma does not teach or

suggest the specific feature of the claimed invention when this reference simply discloses that several peaks representing M elements for each satellite can be obtained using a correlation function. This deficiency of Ma is not remedied by the other references.

Thus, Applicant respectfully submits that the method as recited in amended claim 1 should be allowable over the cited references.

Claims 3, 4 and 6-9 should be allowable at least due to their dependencies and additionally recited elements.

As to claim 3, the Examiner asserts that the following aspect of the claimed invention is disclosed by Ma (FIG. 2 and col. 3, lines 54-61):

wherein in the identifying the each of the satellites,
identifying at least one of the satellites comprises:
 identifying a synchronization time associated with a
 correlation peak;
 determining a plurality of correlations calculated for the
 synchronization time between each of the sum of the corrected
 duplicates and the sum of the satellite signals; and
 identifying the at least one of the satellites associated with
 the correlation peak as a function of the correlations.

The above-quoted feature of the claim is supported by page 7, lines 25-33 and page 10, line 34 to page 11, line 6 of the specification. According to at least these portions of the specification, one aspect of the claimed invention is that, after a synchronization time associated with one correlation peak is determined, this synchronization time is used for calculating a plurality of correlations between each of the corrected duplicates and the sum of the satellite signals. Subsequently, one satellite with the one correlation peak is identified as a function of the plurality of correlations.

However, Ma (col. 3, lines 54-61) does not teach or suggest the foregoing aspect of the claimed invention when this reference simply discloses that several peaks representing M elements for each satellite can be obtained using a correlation function. This deficiency of Ma is not remedied by the other references.

Thus, Applicant respectfully submits that the method of claim 3 and related method (**claim 6**) and apparatus (**claim 8**) should be allowable over the cited references.

With regard to **claim 4**, the Examiner simply asserts, without relying on any reference, that “it would be obvious to identify the satellites by identifying the highest peak first, then the second highest, etc., in order to ensure the highest set of peaks are chosen, rather than just recording everything that might look like a peak, but be a smaller noise source correlation that does not correspond to a satellite lock”.

In this respect, Applicant respectfully notes that the Examiner asserts the claimed feature as allegedly common knowledge or takes an official notice without supporting documentary evidence. However, it is also respectfully noted that the Examiner’s reliance on common knowledge or taking an office notice without supporting documentary evidence is very limited as regulated in MPEP § 2144.03. A relevant portion of the MPEP section reads as follows.

It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. For example, assertions of technical facts in the areas of esoteric technology or specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art. *In re Ahlert*, 424 F.2d at 1091, 165 USPQ at 420-21. It is never appropriate to rely solely on common knowledge in the art without evidentiary support in the record as the principal evidence upon which a rejection was based. See *Zurko*, 258 F.3d at

1386, 59 USPQ2d at 1697; *Ahlert*, 424 F.2d at 1092, 165 USPQ 421.

That being considered, Applicant respectfully submits that the claimed invention is not categorized as being directed to commonly known simple subject matter but should be understood as containing complicated operations for obtaining a correlated function by acquiring satellite data transmitted by plural satellites. Accordingly, Applicant respectfully submits that the rejection of claim 4 is not appropriate when the rejection is only based on mere reliance on common knowledge or an official notice without support of a documentary reference.

4. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/Seunghee Park /

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

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CUSTOMER NUMBER

Seunghee Park
Registration No. 60,719

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